

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

WINE & CANVAS DEVELOPMENT LLC,)	
)	
Plaintiff,)	
)	
vs.)	
)	
THEODORE WEISSER,)	Case No. 1:11-cv-01598-TWP-DKL
CHRISTOPHER MUYLLE,)	
YN CANVAS CA, LLC,)	
WEISSER MANAGEMENT GROUP, LLC,)	
)	
Defendants.)	

**ENTRY ON MOTION TO RECONSIDER ADOPTING REPORT &
RECOMMENDATIONS**

This matter is before the Court on Plaintiff Wine & Canvas Development LLC’s (“Wine & Canvas”) Motion for Partial Reconsideration of ECF 180 (Dkt. 216). On December 23, 2013, the Court adopted in full three Report & Recommendations from the Magistrate Judge after the applicable period for objection had passed. Finding no objection and no reason to alter the Magistrate Judge’s recommendations, the Court adopted in full docket entries 155, 163, and 160. Wine & Canvas now seeks reconsideration of the Court’s adoption of docket entry 155. For the two reasons stated below, the Court declines to do so.

First of all, “Motions to reconsider serve a limited function, to be used ‘where the Court has patently misunderstood a party, or has made a decision outside the adversarial issues presented to the Court by the parties, or has made an error not of reasoning but of apprehension.’” *Davis v. Carmel Clay Sch.*, 286 F.R.D. 411, 412 (S.D. Ind. 2012) (quoting *Bank of Waunakee v. Rochester Cheese Sales, Inc.*, 906 F.2d 1185, 1191 (7th Cir. 1990)) (additional quotations omitted). A motion to reconsider may also be appropriate where there has been “a

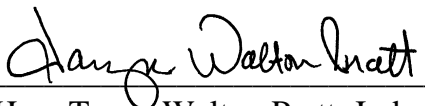
controlling or significant change in the law or facts since the submission of the issue to the Court.” *Bank of Waunakee*, 906 F.2d at 1191 (quoting *Above the Belt, Inc. v. Mel Bohannon Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D. Va. 1983)). Here, Wine & Canvas has not established the grounds needed for reconsideration.

Second, if this motion is filed as an objection, it is untimely. Wine & Canvas previously filed a request for relief from the Report & Recommendation at issue prior to the Court having adopted the same. (See Dkt. 164). It was not filed as an objection to the Report & Recommendation—and would have been untimely even if considered as an objection—and the Magistrate Judge denied it as moot. Wine & Canvas’ arguments should have been presented as an objection to the Magistrate Judge’s Report & Recommendation within 14 days of its filing. The request for reconsideration simply rehashes the same issues and arguments that were before the Magistrate Judge, and does not assert that the Court patently misunderstood a party, or has made a decision outside the adversarial issues presented to the Court by the parties, or has made an error not of reasoning but of apprehension. Neither does it argue a significant change in the law or facts compelling reconsideration. Therefore the Court will not reconsider its adoption of docket entry 155.

Wine & Canvas’ Motion for Partial Reconsideration (Dkt. 216) is **DENIED**.

SO ORDERED.

Date: 04/15/2014



Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

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